

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

SHIRLEY MCDERMOTT,
Charging Party

HRB CASE NO. 0141017106

-v-

FINAL AGENCY DECISION

MONTANA DEPARTMENT OF LABOR
AND INDUSTRY,
Respondent

Charging Party, Shirley McDermott (McDermott), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of race and sex. Following an informal investigation, the Department determined that a preponderance of the evidence did not support McDermott's allegations that Respondent, Montana Department of Labor and Industry, discriminated against McDermott. The Department issued a Notice of Dismissal. McDermott filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 15, 2015. Shirley McDermott appeared via telephone and argued on behalf of herself. M. Gene Allison appeared and argued on behalf of Montana Department of Labor and Industry.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claims are time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA.* This review must be requested within 30 days of the date of this order. A party must promptly serve copies of a petition for judicial review upon the Human Rights Commission and all parties of record. *Section 2-4-702(2), MCA.*

IT IS HEREBY ORDERED, that Shirley McDermott's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Montana Department of Labor and Industry.

DATED this 18th day of May, 2015.

/rondahowlett/
Ronda Howlett, Commissioner
Human Rights Commissioner

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 18th day of May, 2015.

SHIRLEY MCDERMOTT
508 ROUNDHOUSE DRIVE
LAUREL, MT 59044

M. GENE ALLISON
MONTANA BOARD OF REALTY REGULATION
MONTANA DEPARTMENT OF LABOR & INDUSTRY
P.O. BOX 200514
HELENA, MT 59620



Annah Howard, Legal Secretary
Montana Human Rights Bureau